UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,529	10/02/2000	Neelakantan Sundaresan	AM9-99-0149	5198

48146 7590 05/25/2005		EXAMINER
MCGINN & GIBB, PLLC		GARG, YOGESH C
8321 OLD COURTHOUSE ROAD		
SUITE 200	ART UNIT	PAPER NUMBER
VIENNA, VA 22182-3817	3625	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/676,529	SUNDARESAN, NEELAKANTAN
	Examiner	Art Unit	
	Yogesh C Garg	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *12/8/2004 &11/10/2004*.
2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-24* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-24* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
     1.☐ Certified copies of the priority documents have been received.
     2.☐ Certified copies of the priority documents have been received in Application No. _____.
     3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible

for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has

been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37

CFR 1.114. Applicant's submission filed on 12/8/2004 has been entered.

Response to Amendment

2.   Applicant's amendment received on 11/10/2004 is acknowledged and entered. Claims 1,

22-24 are amended. Currently claims 1-24 are pending for examination.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-24, filed on 11/10/2004 have been

considered but are moot in view of the new ground(s) of rejection necessitated due to

amendments made in independent claims 1, 22-24.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roll **(U.S.**

Patent Application Publication 2002/0016779), and further in view of Phaal (US Patent

6,055,564).

Referring to claims 1 and 22-24. Roll discloses a method for conducting

electronic commerce, comprising:

- Electronically visiting, by a customer interested in shopping for an item, a preselected

  comparison shopping site, and inquiring about the item and comparative prices thereof

  (see at least Roll: Figure 10a, Starting from step 504 to step 506 wherein a customer

  using a cell phone visits CMS, which represents the preselected comparison shopping

  site, enquiring about the item and comparative prices thereof. Also see paragraph

  0051);

- Running, by the preselected CompShop, a query on a plurality of electronic stores

  carrying the item, and asking for a price of the item, the plurality of electronic

  stores including at least one smartStore and Determining by the at least one

  smartStore that the query is received from the preselected CompShop (see at

  least Roll: Figure 10 a, steps 507-512, paragraphs 0051-0052 which disclose –The

  smart store corresponds to the "host provider store" and determines if a price is to

  be offered internally.);

- Selectively determining, by the smartStore, an offer price of the item and selectively

  returning one of a static price and wherein the modified price and selectively

  returning, by the SmartStore, of said one of the static price and the modified price

  result from the smartStore learning a best offer price received by the preselected

  CompShop from the plurality of electronic stores (Roll: paragraphs 0052, Fig.10a,

  step 512 and paragraph 0062 to paragraph 0064 and Fig 13).

Roll does not disclose that the smartStore [home provider store in Roll]

server and the preselected comparison server are two different web sites. In Roll,

the smartStore [home provider store in Roll] server and the preselected comparison

server are shown as part of one large Web server, see Fig.4, wherein it includes

several small servers/computers such as, Product/Services Pricing Engine 405,

Databases 406-410. To one of an ordinary skilled in the art it is well-known that a

Web site is a collection of Web pages, files, databases served by an HTTP server

on World Wide Web, allowing hypertext links to other Web servers. Many large

corporations can have several servers dedicated to one Web site or several small

Websites can be served by one server (see Microsoft Press Computer Dictionary,

Third Edition, 1999, Microsoft Press-as a supporting evidence). In Roll, the host

provider 400 resembles one large Web server providing different services as that of

receiving data requests from customers, responding to their requests with price

offers, including data records for customers, demographic data, purchase history

data, products/services data, product providers list, Pricing engine. Phaal teaches

that that when a host processing several different functions its resources could

become stretched and resulting in consumers' frustration in not able to access the

system (see at least Phaal col.28-41) and in order to provide solutions to these

problems of over stretching the host processor's resources splits the operations

between two different websites 17 and 18 (see at least Phaal, col.5, lines 17-39) to

handle the work load faster and efficiently. In view of Phaal, it would have been

obvious to one of an ordinary skilled in the art to split Roll's Host provider Web site

into smaller websites, thereby separating the " Product/Service Pricing engine 405 "

as a separate website handling submitting offers based on feedback received from

the other e-stores.

Splitting the operations of a website into two web sites catering to two different

operations to handle the load efficiently does not rise to the standard of novelty

because this practice is well-known, as analyzed above. Splitting Roll's host

provider's web site into separate websites but being managed by a large server

does not destroy its invention because all contemplated functions and objectives

can be performed as envisaged and would improve the handling of load from the

customers.

Referring to claim 2. Roll further discloses a method comprising returning a static

price by at least one of the plurality of electronic stores determined not to be the

SmartStore (Roll: Figure 13).

Referring to claim 3. Roll further discloses a method comprising sending, by the

SmartStore, a request to the preselected CompShop asking for comparative prices of the item

and determining, by the SmartStore, whether an asking offer price is the best offer price that

can be offered, wherein if the asking offer price is determined to be a lowest price, then the

SmartStore returns its static price (Roll: Figure 13).

Referring to claim 4. Roll further discloses a method of comprising:

- If the asking offer price is determined not to be a lowest price, then adjusting, by the

   smartStore, the price (Roll: Figure 13); and

- Returning a new price to the preselected CompShop (Roll: Figure 13).

Referring to claim 5. Roll further discloses a method wherein the at least one of the electronic stores automatically changes the price depending on a customer for the item asking for the price and what the lowest price is as recorded by the preselected CompShop (Roll: Figure 13).

Referring to claim 6. Roll further discloses a method comprising maintaining, by the smartStore, a list of preselected comparison-shopping sites (Roll: Figure 1).

Referring to claim 7. Roll further discloses a method comprising:

- If a request is made from other than the list of preselected comparison shopping sites, then returning by the smartStore, a static price (Roll: Figure 13); and
- If the request for the price is from the list of preselected comparisons shopping sites, then submitting by the smartStore a request to the preselected CompShop to get a list of all comparison prices for the item (Roll: Figure 13).

Referring to claim 8. Roll further discloses a method comprising when the smartStore obtains the list of all comparison prices, determining whether the smartStore can offer a lowest price (Roll: Figure 13).

Referring to claim 9. Roll further discloses a method wherein the smartStore determines whether it can afford to offer a lower price based upon the comparison and its own cost price and required profit margin (Roll: Figure 13).

Referring to claim 10. Roll further discloses a method comprising if the smartStore can offer a lower price, then returning the lower price to the preselected CompShop (Roll: Figure 13).

Referring to claim 11. Roll further discloses a method comprising if the smartStore cannot offer a lower price, then returning its static price to the CompShop (Roll: Figure 13).

Referring to claim 12. Roll further discloses a method comprising returning, by the preselected CompShop, the list of prices to the customer (Roll: Figure 13).

Referring to claim 13. Roll further discloses a method comprising:

• Selecting, by the customer, based upon prices received, a choice of one of the plurality of electronic stores for providing the item (Roll: Figure 4 and Figure 13).

Referring to claims 14-15. Roll further discloses a method wherein the item comprises a product and service (Roll: paragraph 0020).

Referring to claim 16. Roll further discloses a method wherein the best offer price is the lowest offer price (Roll: paragraph 0001 to paragraph 0009).

Referring to claim 17. Roll further discloses a method wherein the best offer price is the highest offer price (Roll: paragraph 0001 to paragraph 0009).

Referring to claim 18. Roll further discloses a method comprising caching, by the preselected CompShop, the prices received from the plurality of electronic stores (Roll: Figure 10a, Figure 10b, and Figure 11).

Referring to claim 19. Roll further discloses a method comprising caching, by the smartStore, a list of prices received from the preselected CompShop (Roll: Figure 10a, Figure 10b, and Figure 11).

Referring to claim 20. Roll further discloses a method wherein the smartStore selectively visits the preselected CompShop such that information from the preselected CompShop is cached by the smartStore for comparison with a price request occurring between visits to the preselected CompShop (Roll: Figure 10a, Figure 10b, and Figure 11).

Referring to claim 21. Roll further discloses a method wherein a price comparison is performed on an identical item and a substantially identical item, and wherein a graded price is offered on the substantially identical item (Roll: Figure 10a, Figure 1 0b, and Figure 11).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Publication 2005/0010857 to Shmukler et al. discloses a computerized method and system using Internet to provide information on price comparison for products/services based upon user's profile (see at least paragraphs 0001-0012).

(ii) US Publication 2002/0099562 (see at least paragraph 0003), US Publication 2003/0167209 to Hsieh (see at least paragraph 0043 and claim 8), US Publication

2004/0015415 to Cofinao et al. (see at least paragraph 0006) and US Patent 6,012,090 to

Chung et al.(see at least col.8, line 67-col.9, line 20), discloses a method and system of

providing price comparison to online users, shopping on Internet. from different vendors.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Yogesh C Garg whose telephone number is 571-272-6756. The examiner

can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yogesh C Garg
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Art Unit 3625

YCG
May 23, 2005